IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4198 OF 2005

Mr.Ratnashamy Elango ..Applicant

Vs.

Mr.Madhavdas Naraindas Mulchandani & Anr. ..Respondents

...

Mr.P.D.Jadhav Advocate for Applicant
Mr.Y.S.Shinde A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPT. 26,2005

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of proceedings relating to Criminal Case No.969/SS/04 pending before the Addl.Metropolitan Magistrate, 28th Court at Esplanade, Mumbai. In the said case, process has been issued against the applicant under Section 138 of Negotiable Instruments Act. The learned advocate for the applicant submitted that

the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the applicant is set aside, the proceedings in respect of the applicant, would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court

shall not proceed with the trial for a period of four weeks.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]